

**Taxpayer Service on Lien and Levy Appeals
Could Be Further Improved**

May 2001

Reference Number: 2001-10-068

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

May 7, 2001

MEMORANDUM FOR CHIEF, APPEALS

A handwritten signature in cursive script, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Taxpayer Service on Lien and Levy Appeals
Could Be Further Improved

This report presents the results of our review of the Taxpayer Service on Lien and Levy Appeals. The objectives of this audit were to determine if the Internal Revenue Service (IRS) effectively implemented the provisions of 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercised their right to appeal the filing of a lien or the intent to levy and to determine if Appeals Officers timely contacted taxpayers and worked Collection Due Process (CDP) cases to minimize taxpayer burden.

In summary, IRS office of the Chief, Appeals (Appeals) has implemented the provisions of the law for ensuring that taxpayers' rights are protected when they appeal a lien or levy action. In the 66 cases we reviewed, Appeals Officers complied with the requirements of the law. While Appeals has complied with the law when providing taxpayers with their lien or levy appeal rights, improvements can be made to provide better customer service by ensuring Appeals Officers timely contact taxpayers and work cases, and outline in the determination letters all provisions of the law considered in the decision.

We recommended that Appeals establish timeliness standards for making first contacts with taxpayers and for working cases. The closed case quality review should address these timeliness standards in the reviews. In addition, the closed case quality review should ensure that determination letters include all provisions of the law considered in the decisions.

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

Appeals management agreed that they could enhance customer service in several areas. They also agreed that Appeals does not have specific time frames for contacting taxpayers or working cases. However, Appeals management believes that establishing specific guidelines for working cases is not appropriate considering the wide variety and complexity of issues. Instead, Appeals will send acknowledgement letters to taxpayers within 30 days, provide ongoing review and feedback from its Appeals Quality Measurement System (AQMS), and improve timeliness by reporting quarterly on all cases not closed within 180 days of assignment. In addition, Appeals will develop and distribute a guide on the proper preparation of determination letters and will include specific guidelines for CDP cases in the AQMS. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included in Appendix VI.

Please contact me at (202) 622-6510 or Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500, if you have any questions.

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Executive Summary

When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.¹ This claim is referred to as a Notice of Federal Tax Lien. The IRS also has the authority to work directly with financial institutions and other parties to obtain from them funds that are owed to the taxpayer.² This procedure is commonly referred to as a "levy." The IRS is required to notify the taxpayer that a Notice of Federal Tax Lien has been filed and to let the taxpayer know of the intent to levy.

Taxpayers may appeal the lien or levy action.³ The appeal hearing is held by the IRS' office of the Chief, Appeals (Appeals) and is referred to as the Collection Due Process (CDP) hearing. At the CDP hearing, an Appeals Officer ensures the hearing is conducted according to the provisions in the law. Specifically, the Appeals Officer ensures that the IRS followed all applicable laws or administrative procedures. The taxpayer may raise relevant issues and defenses as well as collection alternatives. The Appeals Officer must then determine whether the proposed collection action balances efficient tax collection with the taxpayer's legitimate concerns. The CDP program was implemented in January 1999 and, as of October 1, 2000, Appeals reported issuing over 4,600 determination letters to taxpayers presenting the results of CDP hearings.

The Treasury Inspector General for Tax Administration is required to determine annually if the IRS complied with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.⁴ The objectives of this audit were to determine if the IRS effectively implemented the provisions of 26 U.S.C. §§ 6320 and 6330 when taxpayers exercised their right to appeal the filing of a lien or the intent to levy and to determine if Appeals Officers timely contacted taxpayers and worked CDP cases to minimize taxpayer burden.

Results

Appeals has implemented the provisions of 26 U.S.C. §§ 6320 and 6330 for ensuring that taxpayers' rights are protected when they exercise their right to appeal a lien or levy

¹ 26 U.S.C. § 6321 (1994).

² 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

³ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

⁴ 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

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action. Appeals updated its guidelines to include procedures for CDP hearings and initiated a training program to provide employees with the skills and knowledge needed to understand and work collection issues.

Appeals generally complied with the requirements of the law and ensured taxpayers' CDP rights were protected for the 66 CDP cases we reviewed during this audit. While Appeals complied with the law when providing taxpayers with their CDP appeal rights, improvements can be made to provide better customer service by ensuring:

- Appeals Officers timely contact taxpayers and work cases.
- Appeals Officers outline in the determination letters all provisions of the law considered in the decision.

Appeals Implemented the Requirements of the Law

In the 66 cases we reviewed, Appeals Officers complied with the requirements of 26 U.S.C §§ 6320 and 6330. The hearings were conducted by an Appeals Officer who had no prior involvement with the unpaid tax. The Appeals Officers generally:

- Obtained verification that the IRS followed the applicable laws or administrative procedures.
- Considered the specific challenges raised by the taxpayers.
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies.

The Appeals Officers also considered other collection alternatives, when appropriate.

Appeals Should Improve Its Timeliness in Contacting Taxpayers and Working Cases

Appeals Officers did not always timely contact taxpayers after cases were assigned, and case files had periods of unexplained inactivity. For the 66 CDP cases we reviewed, Appeals Officers assigned to the cases took an average of 54 days (from less than 1 day to 281 days)⁵ to contact taxpayers.⁶ In 13 cases, there was no documentation of any contact with the taxpayer or any activity on the case for periods of 60 to over 150 days after assignment. Also, 12 case files had unexplained gaps in activity of 60 to over 150 days after the taxpayer had been contacted.

⁵ References to days are to calendar days.

⁶ For one of the cases reviewed, the first contact date could not be determined.

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Delays in contacting taxpayers and working cases lengthen the time it takes for taxpayers to receive their appeal results. Inventory records indicate that Appeals averaged approximately 6 months to issue determination letters to taxpayers after the cases were assigned. Appeals Officers spent, on average, only 11 hours working these cases.

Although some initial delays were inherent as Appeals Officers gained an understanding of a new program area, we believe delays will continue unless Appeals establishes time standards for making first contacts and working cases. We believe it is reasonable that an Appeals Officer contact a taxpayer within 30 days after case assignment. Appeals is scheduled to implement a closed case quality review program in Fiscal Year 2001 but has not established a specific criterion for measuring the timeliness of case resolution.

We believe that these delays may have contributed to taxpayers' dissatisfaction with the Appeals process. Appeals Customer Satisfaction Surveys have consistently identified timeliness as the primary cause of dissatisfaction among those taxpayers who completed the surveys. In the July 2000 survey, the top three areas identified as needing improvement were the length of the process, the time to hear from Appeals, and the time to schedule an Appeals conference.

Appeals Should Ensure That Determination Letters Outline All Provisions of the Law

Although Appeals Officers made the appropriate determinations in the 66 CDP cases we reviewed, approximately 14 percent (9 of 66) of the determination letters provided to taxpayers did not completely outline all provisions of the law considered in the decisions. This occurred because the program was relatively new, not all Appeals Officers had received CDP training, and the closed case quality review had not been implemented.

The CDP Program began in January 1999, and four of the eight Appeals Officers who worked the nine cases had not received CDP training before they worked the cases. Appeals initiated its CDP training efforts in February 1999. Since then, the training has been revised and improved to include more collection issues and procedures. In addition, although Appeals is scheduled to implement a closed case quality review program, specific criteria for reviewing determination letters have not been established.

It is important that the letters provided to the taxpayers fully explain the basis for Appeals' determinations and address all relevant issues. Failure to comply with these requirements could have an adverse affect on taxpayer rights. The letters should demonstrate to the taxpayers and any reviewing courts that all the laws and regulations were followed and all the relevant facts presented by the taxpayers were considered.

Summary of Recommendations

Appeals should establish timeliness standards for making first contacts with taxpayers and for working cases. The closed case quality reviews should address these timeliness standards. In addition, the closed case quality review should include criteria to ensure that determination letters include all provisions of the law considered in the decisions.

Management's Response: Appeals management responded that they could enhance customer service in several areas. They agreed that Appeals does not have specific time frames for contacting taxpayers or working cases. However, management believes that establishing specific guidelines for working cases is not appropriate considering the wide variety and complexity of issues. Instead, Appeals management will send acknowledgement letters to taxpayers within 30 days, provide ongoing review and feedback from its Appeals Quality Measurement System (AQMS), and improve timeliness by reporting quarterly on all cases not closed within 180 days of assignment. In addition, Appeals will develop and distribute a guide on the proper preparation of determination letters and will include specific guidelines for CDP cases in the AQMS.

Management's complete response to the draft report is included in Appendix VI.

Objectives and Scope

This audit evaluated the office of the Chief, Appeals' compliance with taxpayers' right to appeal and determined if Appeals Officers timely contacted taxpayers.

The objectives of this audit were to determine if the Internal Revenue Service (IRS) effectively implemented the provisions of 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercised their right to appeal the filing of a lien or the intent to levy and to determine if Appeals Officers timely contacted taxpayers and worked Collection Due Process (CDP) cases to minimize taxpayer burden.

The Treasury Inspector General for Tax Administration is required to determine annually whether the IRS complies with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.² We performed this audit from August 2000 to January 2001 in accordance with *Government Auditing Standards*.

We performed our audit tests in the IRS' office of the Chief, Appeals (Appeals), in the National Headquarters; Detroit, Michigan; Laguna Niguel, California; and St. Paul, Minnesota. In addition to on-site testing, we made telephone contacts with Appeals managers in 18 Appeals offices.

We discussed procedures, controls, and processes; analyzed data from the Appeals inventory control system; and reviewed 66 CDP cases.

During the audit, we:

- Discussed CDP procedures, controls, and processes with Appeals officials in the National Headquarters and local Appeals offices.
- Obtained a download of CDP cases controlled on the Appeals inventory control system on July 31, 2000, and analyzed the data to determine the time it takes to process CDP cases.
- Reviewed a statistical sample of 66 CDP cases to determine if Appeals Officers complied with the law

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

² 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

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and IRS guidelines concerning the rights of taxpayers appealing a lien or intent to levy.

Details of our audit objectives, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

Background

When initial contacts by the IRS do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.³ This claim is commonly referred to as a Notice of Federal Tax Lien. The IRS also has the authority to work directly with financial institutions and other parties to obtain from them funds that are owed to the taxpayer.⁴ This procedure is commonly referred to as a "levy."

The IRS is required to notify taxpayers in writing of the filing of a lien or the intent to levy. The notice explains the taxpayer's right to appeal the lien or levy action.

Since January 19, 1999, the IRS has been required to notify the taxpayer in writing that a Notice of Federal Tax Lien has been filed and to let the taxpayer know of its intent to levy. The taxpayers may appeal the lien or levy action.⁵ This appeal or hearing is called the CDP.

Collection Due Process

If a taxpayer requests a hearing to appeal the lien or levy action, the hearing is to be held by Appeals and conducted by an Appeals Officer who has no prior involvement with respect to the underlying tax liability. A taxpayer is entitled to only one hearing for the tax period covered by the lien or levy.

At the CDP hearing, the Appeals Officer must obtain verification from the IRS that all applicable laws or administrative procedures have been followed. The taxpayer may raise any issue relevant to the unpaid tax or the proposed levy, such as appropriate spousal

³ 26 U.S.C. § 6321 (1994).

⁴ 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

⁵ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

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defenses, challenges to the appropriateness of the collection actions, and offers of collection alternatives. However, the taxpayer may not raise an issue that was raised and considered at a prior administrative or judicial hearing, if the taxpayer participated meaningfully in the prior hearing or proceeding.

After considering these issues and whether the proposed collection action balances efficient tax collection with the taxpayer's legitimate concerns, Appeals issues a determination letter to the taxpayer. The determination letter presents Appeals' findings and decisions as well as any agreements Appeals reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take.

A synopsis of the IRS collection, lien, and levy filing processes and the CDP is included in Appendix V.

Results

Appeals has implemented the provisions of 26 U.S.C §§ 6320 and 6330 for ensuring that taxpayers' rights are protected when they exercise their right to appeal a lien or levy action. Appeals updated its guidelines to include procedures for CDP hearings and initiated a training program to provide employees with the skills and knowledge needed to understand and work collection issues.

Although Appeals ensured taxpayers' appeal rights were protected for the 66 cases reviewed, improvements are needed to provide better customer service.

The CDP program was implemented in January 1999. Appeals reported issuing over 4,600 determination letters as of October 1, 2000. For the 66 CDP cases reviewed during this audit, Appeals generally complied with the law when providing taxpayers with their CDP appeal rights. However, improvements can be made to provide better customer service by ensuring:

- Appeals Officers timely contact taxpayers and work cases.
- Appeals Officers outline in the determination letters all the provisions of the law considered in the decisions.

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Appeals Implemented the Requirements of the Law

Appeals Officers generally complied with the law when providing taxpayers their CDP appeal rights.

In the 66 cases reviewed during this audit, Appeals Officers complied with the requirements of 26 U.S.C. §§ 6320 and 6330. In this regard, Appeals Officers who had no prior involvement with the unpaid taxes conducted the hearings. The Appeals Officers generally:

- Obtained verification that the IRS followed the applicable laws or administrative procedures.
- Considered the specific challenges raised by the taxpayers.
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies.

The Appeals Officers also considered other collection alternatives, when appropriate.

Appeals Officers generally took the necessary and proper actions in the CDP cases reviewed. When appropriate, Appeals Officers provided the relief the taxpayer requested or determined that the tax liability was currently not collectible.

Appeals Officers did not stop the lien or levy action in some cases because of regulatory requirements or because the taxpayer did not respond to requests for additional information.

When Appeals was not able to provide taxpayers with the relief they requested, it was either because of IRS or Internal Revenue Code requirements or because the taxpayers did not respond to the Appeals Officers' requests for information. For example, a taxpayer who was delinquent on current taxes appealed a lien and requested an installment agreement. In this instance, the Appeals Officer would have denied the request and sustained the lien because the taxpayer was delinquent on current tax payments and IRS regulations do not allow installment agreements for taxpayers delinquent on current taxes.

When taxpayers did not respond to contacts or attend hearings, Appeals Officers appropriately made determinations based on available information. In these

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cases, Appeals Officers are required to make the decisions and issue determination letters based on the information available in the case files and on IRS computer systems.

In addition, Appeals provided taxpayers with the opportunity for a CDP hearing, even though the taxpayers did not raise any relevant issues. An example of this would be when a taxpayer asked for a hearing to raise only constitutional issues or the taxpayer challenged the underlying tax liability. In most cases, these issues are not relevant issues and are restricted from consideration in a CDP appeal. However, the taxpayer was still provided a hearing.

Appeals Should Improve Its Timeliness in Contacting Taxpayers and Working Cases

For the 66 CDP cases reviewed in this audit, it took from less than 1 day to 281 days for Appeals Officers to contact taxpayers.

Appeals Officers did not always timely contact taxpayers after cases were assigned, and case files had periods of unexplained inactivity. For the 66 CDP cases reviewed in this audit, it took an average of 54 days (from less than 1 day to 281 days)⁶ for Appeals Officers assigned to the cases to contact taxpayers.⁷ In 13 cases, there was no documentation of any taxpayer contact or case activity for periods of 60 to over 150 days after assignment. Also, 12 case files had gaps in activity of 60 to over 150 days after the taxpayer had been contacted.

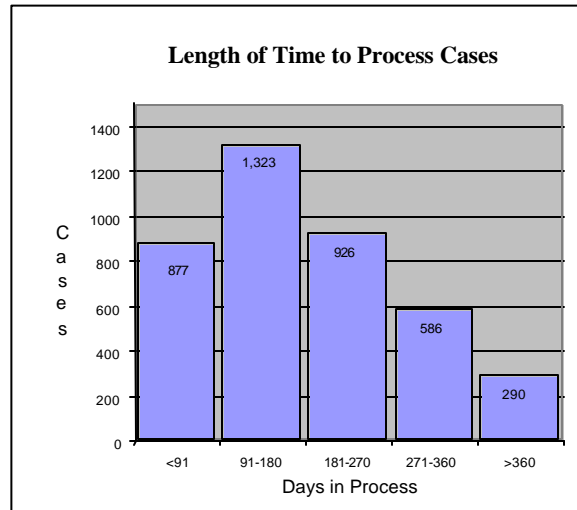
Inventory records indicate that it took an average of 6 months for Appeals to issue taxpayers a determination letter. For the 4,002 CDP open case inventory records as of July 31, 2000, Appeals took an average of 183 days to issue determination letters after the cases were assigned to the Appeals Officers. The following chart provides a breakdown of the length of time it took

⁶ References to days are to calendar days.

⁷ For one of the cases reviewed, the first contact date could not be determined.

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for Appeals to issue determination letters for the 4,002 cases.



Source: Appeals inventory control system records of as of July 31, 2000.

While the case processing times were lengthy, Appeals Officers spent, on average, only 11 hours working those cases. In addition, 20 percent of the open cases without determination letters had been open for over a year.

Appeals' mission, as stated in its internal manual, is to ensure a prompt conference and a prompt decision in each Appeals case. The manual states that CDP cases deserve priority consideration. In addition, the Code of Federal Regulations⁸ states that Appeals will attempt to conduct CDP hearings as expeditiously as possible.

Appeals managers believed that the lengthy processing time was due, in part, to the newness of the program, which required training on collection issues for Appeals Officers.

A multi-office CDP Task Force (reporting in September 2000) and many of the Appeals managers and analysts we interviewed stated that the delays in the process were, in part, the consequences of implementing a new program. For example, they believed that:

- Cases were initially assigned to Appeals Officers before they received training on collection issues and procedures. Of the cases reviewed in this audit,

⁸ 26 CFR 301.6320-1T Q-E8 and .6330-1T Q-E8.

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over one-third were worked by Appeals Officers who had not yet received CDP training. However, by October 2000, most Appeals Officers had received training on collection issues and procedures.

- Training temporarily redirected resources, leaving fewer Appeals Officers to work CDP cases.
- Some CDP hearing requests were forwarded to Appeals before the offices collecting the tax fully developed the cases. These cases had to be returned for additional work or more information before the Appeals office could schedule the CDP hearing or resolve the case.

Initial delays were to be expected as Appeals Officers gained knowledge of the new program area through practice and training. However, these delays will likely continue unless Appeals establishes time standards for making first contacts and working cases. We believe it is reasonable that an Appeals Officer contact a taxpayer within 30 days after case assignment.

The Appeals closed case quality review program had not established specific criteria for measuring timeliness.

Appeals had not established time standards for making first contacts with taxpayers or for working cases. Appeals is scheduled to implement a closed case quality review program during Fiscal Year 2001. Timeliness will be addressed during the quality review of those CDP cases selected for the quality assurance program. However, a specific criterion for measuring the timeliness of case resolution has not been established.

Appeals analysts and managers stated that they have been reluctant to establish time standards that might appear to impose goals that would conflict with IRS guidelines concerning the prohibition on production quotas. However, establishing a goal for timely contacting taxpayers and for continually working cases does not conflict with IRS guidelines.

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Sixteen of 22 Appeals managers interviewed have expectations for timeliness in taxpayer contact or in working cases.

The majority of Appeals managers interviewed during this audit believed in having some time standards for contacting taxpayers. Of the 22 Appeals managers interviewed, 16 acknowledged that they had timeliness expectations within which Appeals Officers should make first contacts with taxpayers or work CDP cases.

When asked how soon Appeals Officers should contact taxpayers after receiving the cases, 13 managers gave answers ranging from 1 week to 3 months. When asked how long it should take an Appeals Officer to work the average CDP case, most managers stated that each case is unique. Nevertheless, 11 managers believed that CDP cases should generally be resolved within 2 to 9 months.

Customer Satisfaction Surveys identified timeliness as Appeals' primary area for improvement.

Delays in contacting taxpayers and working cases lengthen the time it takes for taxpayers to receive their appeal results. Between January 1999 and October 1, 2000, Appeals reported issuing over 4,600 determination letters presenting results of CDP hearings to taxpayers. Appeals Customer Satisfaction Surveys have consistently identified timeliness as the primary cause of dissatisfaction among those taxpayers who completed the surveys. In the July 2000 survey, the top three areas identified as needing improvement were the length of the process, the time to hear from Appeals, and the time to schedule an Appeals conference.

We believe that these delays may have contributed to taxpayers' dissatisfaction with the Appeals process. Establishing time standards for making first contacts with taxpayers and working cases will help ensure that taxpayers' CDP cases are timely resolved.

Recommendation

1. Appeals should establish timeliness standards for making first contacts with taxpayers and working CDP cases and include these measures in the closed case quality review program.

Management's Response: Appeals believes that establishing specific guidelines for working cases is not appropriate considering the wide variety and complexity of issues. Instead, Appeals will send acknowledgement

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letters within 30 days to taxpayers for CDP cases. The letters will provide the name of a contact person and a description of the process. Appeals will provide ongoing review and feedback by establishing Appeals Quality Measurement System (AQMS) guidelines specific to CDP cases. These guidelines will include the 30-day contact letter requirement. In addition, Appeals will improve the timeliness of case resolution by reporting quarterly by case segment on all cases not closed within 180 days from assignment.

Appeals Should Ensure That Determination Letters Outline All Provisions of the Law

Determination letters did not always fully explain the basis for the Appeals Officers' decisions.

Although Appeals Officers made the appropriate determinations in the 66 CDP cases reviewed during this audit, approximately 14 percent (9 of 66) of the letters provided to taxpayers did not completely address all the provisions of the law considered in the decisions. The letters outlined the decisions and what relief was given (if any), any actions required of the taxpayer and/or the IRS, and the taxpayers' right to appeal the decisions to the courts. However, not all the letters addressed all the issues raised by the taxpayers or clearly confirmed that:

- The IRS followed all the required laws and regulations.
- The proposed collection action balanced the need for efficient tax collection with the taxpayers' concerns.

Determination letters must address all issues raised by the taxpayer and whether the IRS followed all the applicable rules and regulations and balanced tax collection with taxpayers' legitimate concerns.

The Code of Federal Regulations⁹ and Appeals procedures state that the letters must address all issues raised by the taxpayers and whether the IRS followed all the applicable rules and regulations and balanced tax collection with the taxpayers' legitimate concerns.

Determination letters did not outline all the provisions of the law not only because the program was relatively new, but also because not all Appeals Officers had

⁹ 26 CFR 301.6330-1T(e)(Q-E7).

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The quality review program could have identified the problem.

received CDP training. Four of the eight Appeals Officers who worked these nine cases had not received CDP training before they worked the cases. Appeals initiated CDP training efforts in February 1999. Since then, the training has been revised and improved to include more collection issues and procedures.

In addition, the closed case quality review program that could have identified this condition had not yet been implemented. Appeals is scheduled to implement the program in Fiscal Year 2001. However, Appeals has not established specific case review criteria for reviewing determination letters in the closed case quality review program.

If the letters provided to the taxpayers do not fully explain the basis for Appeals' determinations and address all relevant issues, the taxpayers and any reviewing courts might not be able to easily determine that all the laws and regulations were followed and all the relevant facts presented by the taxpayers were considered. This could also affect taxpayers' rights if taxpayers and any reviewing courts cannot make this determination.

Recommendation

2. Appeals should include criteria in the closed case quality review program to ensure determination letters meet the requirements of the Code of Federal Regulations and address Appeals' basis for the determination, i.e., that each letter addresses all issues raised by the taxpayer and whether the IRS followed all the applicable rules and regulations and balanced tax collection with the taxpayer's legitimate concerns.

Management's Response: When TIGTA notified Appeals that all determination letters did not meet requirements of the law, Appeals immediately issued a memorandum reminding employees to discuss these provisions adequately in the determination letters. In addition, Appeals will improve the quality of its Appeals Case Memorandums and determination letters by

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developing and distributing a guide on the proper preparation of these documents for use by its field personnel. Appeals will also provide ongoing review and feedback by establishing AQMS guidelines specific to CDP cases.

Conclusion

Appeals has effectively implemented the provisions of the law ensuring that taxpayers' rights are protected when they appeal a lien or levy action. While Appeals may be complying with the law, we believe delays in contacting taxpayers and working cases lengthen the time before taxpayers receive appeal results and this may contribute to taxpayers' dissatisfaction with the Appeals process.

In addition, Appeals could improve customer service by ensuring that Appeals Officers provide taxpayers with determination letters that outline all provisions of the law considered in the decision. It is important that determination letters fully explain to the taxpayers and any reviewing courts that all the laws and regulations were followed and all the relevant facts presented by the taxpayers were considered.

Detailed Objectives, Scope, and Methodology

The objectives of this audit were to determine if the Internal Revenue Service (IRS) effectively implemented the provisions of 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercised their right to appeal the filing of a lien or the intent to levy and to determine if Appeals Officers timely contacted taxpayers and worked Collection Due Process (CDP) cases to minimize taxpayer burden. Specifically, we:

- I. Determined if the IRS implemented the provisions of 26 U.S.C. §§ 6320 and 6330 that provide taxpayers the right to appeal the filing of a lien or the intent to levy. We performed testing in the IRS' office of the Chief, Appeals (Appeals), in the National Headquarters; Detroit, Michigan; Laguna Niguel, California; and St. Paul, Minnesota. We selected these offices after analyzing the data of open cases on the Appeals information system, i.e., the number of cases processed and the time it takes to process the cases.

In addition to on-site testing, we made telephone contacts with Appeals managers in the following 18 Appeals offices:

Boston, Massachusetts	Manhattan, New York
Chicago, Illinois	Miami, Florida
Cincinnati, Ohio	Nashville, Tennessee
Fresno, California	Newark, New Jersey
Greensboro, North Carolina	Omaha, Nebraska
Hartford, Connecticut	Philadelphia, Pennsylvania
Houston, Texas	Phoenix, Arizona
Indianapolis, Indiana	Seattle, Washington
Los Angeles, California	St. Louis, Missouri

We judgmentally selected from a list of 78 managers involved with the CDP. We randomly started with number two on the list and selected every third manager. These managers were located in 18 Appeals offices.

- A. Identified through discussions with appropriate Appeals employees the current procedures and guidelines (Internal Revenue Manual, National Headquarters memoranda, etc.) for processing CDP cases. We determined whether Appeals has established a closed case quality review program for CDP cases.
- B. Selected a statistical sample of 66 cases for review from a download of 4,002 CDP open case inventory records controlled on the Appeals inventory

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

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control system, the Appeals Centralized Database System (ACDS), on July 31, 2000. We identified 1,746 cases in which Appeals had issued determination letters. We used attribute sampling and the following formula to calculate the sample size (n):

$$n = (NZ^2p(1-p))/(NE^2+Z^2p(1-p)).$$

N = Population (1,746 CDP cases).

Z = Desired Confidence Level (92.5 percent).

p = Expected Error Rate (2 percent).

E = Precision Level (3 percent).

Using a sampling application designed in Microsoft Access, we calculated a sample size and randomly selected cases for review.

- C. Obtained copies of the 66 selected case files, including the Case Activity Record and the Case Summary Card, from local Appeals offices. We reviewed the selected cases to determine whether Appeals Officers complied with 26 U.S.C. §§ 6320 and 6330 and related regulations and whether taxpayers' rights were protected.
 - D. Discussed unresolved case issues with the appropriate Appeals manager, National Headquarters analyst, or Counsel from the Office of Treasury Inspector General for Tax Administration.
- II. Determined whether controls were in place to ensure that Appeals Officers promptly contacted taxpayers, scheduled conferences, and timely worked CDP cases to determine whether taxpayers' appeal rights were promptly addressed and appeal requests were timely resolved.
- A. Used the download from the ACDS to identify cases with issued determination letters and determined the average time it takes to process a case from the assignment date to the date of the determination letter.
 - B. Used the ACDS download of open cases to identify cases without a determination letter and stratified the cases by age (from less than 91 days to over 360 days),² using the number of days the cases had been assigned to Appeals Officers without a conference being held.
 - C. Validated the data obtained from the ACDS by examining the records for missing or invalid data and by comparing data from the ACDS with documentation from other sources and from information in the case files.
 - D. Determined what managerial controls were in place to assure that taxpayers requesting a CDP hearing are promptly contacted, interviews are timely

² References to days are to calendar days.

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scheduled, and issues timely resolved by interviewing Appeals personnel and obtaining management information system reports.

- E. Obtained the results of the CDP Task Force (reporting September 2000) and identified any recommendations relating to timeliness.
- F. Analyzed the data results from the ACDS download, Appeals reports and interviews, and case reviews and discussed any unresolved issues with the appropriate Appeals officials to determine the impact of delays in the CDP process on taxpayers and the cause of the delays.
- G. Analyzed data in Appeals reports to determine the number of taxpayers with CDP cases served by Appeals.

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Director, Legislative Affairs CL:LA
Office of Management Controls N: CFO:F:M
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
National Taxpayer Advocate TA
Audit Liaison: Chief, Appeals AP

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 238 determination letters (see page 9).

Methodology Used to Measure the Reported Benefit:

From our nationwide statistically valid sample of 66 Appeals Collection Due Process (CDP) cases, we identified 9 (approximately 14 percent) cases with determination letters that did not completely outline all provisions of the law considered in the decisions. We projected our findings to the total population of 1,746 CDP cases with determination letters on the Appeals inventory control system, the Appeals Centralized Database System (ACDS), on July 31, 2000. We estimated that similar taxpayer rights could have been affected in 238 determination letters to taxpayers ($9/66 \times 1,746$ population). We are 95 percent confident that the range of taxpayer cases affected by similar rights is between 96 and 379. Taxpayer rights could be affected because taxpayers and reviewing courts might not be able to easily determine that all laws and regulations were followed and facts presented by the taxpayers were considered.

**Synopsis of the Internal Revenue Service
Collection, Lien, and Levy Filing Processes
and the Collection Due Process Hearing**

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. The Internal Revenue Service (IRS) computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either personal or telephone contact.

- IRS employees who make personal (face-to-face) contact with taxpayers are called Revenue Officers and work in the IRS field offices. The computer system used in most of the field offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System.
- IRS employees who make only telephone contact with taxpayers are called Customer Service Representatives and work in call sites in IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayer accounts is called the Automated Collection System.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a Notice of Federal Tax Lien (FTL). In addition, the IRS has the authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This taking of money that is owed to the taxpayer by a third party is commonly referred to as a “levy.”

Federal Tax Lien

Liens protect the government’s interest by attaching a claim to the taxpayer’s assets for the amount of unpaid tax liabilities. The right to file an FTL is created by 26 U.S.C. § 6321 (1994) when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount within 10 days after the notice and demand for payment.

The IRS is required to notify the taxpayer the first time an FTL is filed for each tax period. It has to notify the taxpayer within 5 days after the lien notice filing. The taxpayer then has 30 days, after that 5-day period, to request a hearing with the office of the Chief, Appeals (Appeals).

Taxpayer Service on Lien and Levy Appeals Could Be Further Improved

Levy

A levy is a legal seizure of property to satisfy a tax debt. Levies are different from liens. A lien is a claim used as security for the tax debt, while a levy actually takes the property to satisfy the tax debt. The IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers is provided by 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

The IRS usually does not levy unless:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The IRS has sent a Final Notice of Intent to Levy and a Notice of Right to Hearing (levy notice) at least 30 days before the levy action. This 30-day period allows the taxpayer time to solve any problems from the levy or to make other arrangements to pay.

For each tax period, the IRS is required to notify the taxpayer the first time it intends to collect a tax liability by taking the taxpayer's property or rights to property. It does this by sending the taxpayer a levy notice. The IRS cannot levy on or seize property within 30 days from the date this notice is mailed, given to the taxpayer, or left at the taxpayer's home or office. During that 30-day period, the taxpayer may request a hearing with Appeals.

There are two exceptions to this notice of intent to levy provision. The IRS may issue a levy without sending this notice or waiting 30 days when collection of the tax is in jeopardy. It may also levy on a taxpayer's State tax refund without sending a notice or waiting 30 days. However, the taxpayer can request a hearing after the levy action for both of these instances.

Collection Due Process (CDP) Hearing

The IRS is required by 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998) to notify taxpayers in writing that an FTL has been filed and to let taxpayers know of its intent to levy. The request must be in writing and within the time prescribed by the law. Taxpayers are entitled to one hearing per tax liability period for which an FTL or intent to levy has been filed. The hearing is to be conducted in Appeals by an Appeals Officer who had no prior involvement with the unpaid tax; the taxpayer may waive this requirement.

Unless the IRS believes that collection of the tax is in jeopardy, the IRS will stop the levy during the appeals process. In addition, the IRS will also suspend the 10-year collection statute of limitations during the appeal process and until the determination is final.

The taxpayer may raise any relevant issue related to the unpaid tax or the proposed levy, including:

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- Spousal defenses.
- The appropriateness of collection actions.
- Other collection actions.
- The existence or amount of the tax, but only if the taxpayer did not receive a notice of deficiency for that liability or did not have an opportunity to dispute the tax liability.

An issue may not be raised at the CDP hearing if the taxpayer participated meaningfully in any previous administrative or judicial proceeding where the same issue was already raised and considered.

The Appeals Officer must:

- Obtain verification from the IRS that the requirements of any applicable law or administrative procedure have been met.
- Consider the specific challenges raised by the taxpayer.
- Consider whether the proposed collection action properly balances the need for efficient collection of taxes with any legitimate concern of the taxpayer that the proposed collection action is more intrusive than necessary.

At the conclusion of the hearing, Appeals will issue a written determination letter. The determination letter explains Appeals' findings and decisions, as well as any agreements Appeals reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take. The determination letter must also demonstrate that the Appeals Officer complied with all the requirements of 26 U.S.C. §§ 6320 and 6330.

The taxpayer may seek judicial review of Appeals' determination in the Tax Court or U.S. District Court by filing a petition or complaint in the appropriate court within 30 days of the date of Appeals' determination. If the court determines that the appeal was to an incorrect court, the taxpayer has 30 days after the court determination to file the appeal with the correct court.

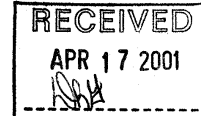
Appeals will retain jurisdiction over its determinations and how they are carried out. The taxpayer may also return to Appeals if circumstances change and affect the original determination.

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

APR 16 2001



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Daniel L. Black Jr.
Chief, Appeals

SUBJECT:

Draft Report – Taxpayer Service on Lien and Levy Appeals
Could Be Further Improved, dated March 7, 2001

Thank you for the opportunity to comment on this draft report. We are pleased you found we effectively implemented the provisions of IRC Sec. 6320 and 6330, which govern Collection Due Process (CDP) Appeals hearings for liens and levies. We also agree with you that Appeals can enhance its customer service in several areas, and we will work to do so. We will take the following actions to address the recommendations in your report:

- Improve the quality of our Appeals Case Memos (ACM) and Determination Letters (DL) by developing and distributing a guide on the proper preparation of these documents for use by our field personnel.
- Improve the timeliness of case resolution by reporting quarterly by case segment on all cases not closed within 180 days from assignment.
- Improve customer knowledge and understanding of the Appeals process by issuing acknowledgement letters within 30 days of receipt in Appeals.
- Support customer understanding of Appeals by referring the substantive contact issue to our Appeals Customer Service Oversight group to develop a timeliness and content standard and recommend a measurement mechanism.
- Provide on-going review and feedback by establishing Appeals Quality Measurement System (AQMS) guidelines specific to Collection Due Process cases.

We will implement the above actions this fiscal year.

Recommendation #1

Appeals should establish timeliness standards for making first contacts with taxpayers and working CDP cases and include these measures in the closed case quality review program.

ASSESSMENT OF CAUSE:

Timeliness is an issue on these cases, however, not all delays are due to Appeals. We believe the Appeal process should begin with Compliance notifying CDP taxpayers when their case is actually sent to Appeals. Of course, we should promptly notify the taxpayer when we receive the case in Appeals. We understand that a TIGTA audit on customer service has identified this as a Compliance issue.

Working cases timely is more complex than acknowledging receipt of a case. We have to wait for legal guidance to be clear when changes are made to the law. Sometimes this guidance is only available after the courts have set legal precedent.

New issues, raised for the first time in Appeals, such as Offers-in-Compromise, Installment Agreements, and underlying liability must be returned to the Compliance functions for development and verification. These additional issues can make one case become multiple cases - each with its own verification and acceptance process.

One of our biggest challenges to taking timely actions, appropriate to the case complexity or developmental needs of the case, was that most of our employees did not have a Collection background. As such, we began a major training effort. We are proud of our success. To accomplish this training we used our employees with a Collection background as instructors. Therefore, our most skilled employees were taken offline for weeks at a time and our case closures temporarily suffered.

We believe the time it took us to close CDP cases and the periods of no activity are reasonably explained by one of these factors. However, we agree we should note the reasons for extended periods of no action in the case history.

Appeals will continue to work to close CDP cases in the shortest time and most efficient manner. However we believe we can improve customer satisfaction by giving fair, impartial, and technically proficient service rather than quickly completing most cases.

We agree Appeals does not have specific time frames for contacting taxpayers or working cases. However, as the Appeals IRM states, CDP cases "warrant priority consideration." You recommended an initial contact within 30 days.

You also recommended Appeals should establish standards for making the initial contacts with taxpayers and working CDP cases. You recommended we include these measures in the closed case quality review program.

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Appeals has been involved in another TIGTA audit concerning Customer Service. You are examining our contact letters to see if we told the taxpayer the following:

- Who to contact
- What the taxpayer can expect to happen next
- Expected timeframes for the next action

We agree to send an acknowledgement letter to taxpayers for CDP cases within 30 days. These letters will include 1) the name of a contact person, and 2) a description of the process. The third area – expected timeframes for the next action – is difficult to project without a substantive review of the case. Complex issues require more time to assess; therefore setting specific standards for all cases is inappropriate. However we will refer this issue to our Customer Service Oversight to review and recommend a solution. We believe setting a range of time for substantive review and notification is a possible solution. This range may vary by type and complexity of the CDP case.

We believe our efforts to implement the CDP Task Force recommendations will improve timeliness. Additionally, we are working on many other recommendations to improve the timeliness and effectiveness of our case closures. We are training more Appeals Officers in Collection/ CDP cases. Some specific Appeals responses to the CDP Task Force recommendations include:

- Developing of Best Practices and Case Management Guides
- Placing CDP resource material on our Appeals Website
- Initiating quarterly action plans on all older cases
- Developing a CDP Business Review process
- Using a standard Compliance case referral document

We do not think it is appropriate to set specific timeframes for working all cases. Cases differ too much in complexity and required closure actions for us to set a standard that can apply equally to all CDP cases. However, we are asking for action plans on any CDP case over 180 days from assignment date with no determination letter issued. We believe action plans will help us take actions on each taxpayer's case in timeframes that are appropriate to the taxpayer's issues and situation. We expect the action plans will help us take appropriate actions faster and will act to document other impacting factors. To set normal timeframes for closing cases, we will categorize our inventory by segment and identify the best practices by segment.

We also agree we should include recommendations coming from our Customer Service Oversight Group on measures and timeframes in our closed case quality review program.

AGREED ACTIONS:

We will:

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1. Send an acknowledgement letter to taxpayers for CDP cases within 30 days. These letters will include the name of a contact person, and a description of the process.
2. Provide on-going review and feedback by establishing Appeals Quality Measurement System (AQMS) guidelines specific to Collection Due Process cases. This will include the 30 day contact letter requirement.
3. Improve the timeliness of case resolution by reporting quarterly by case segment on all cases not closed within 180 days from assignment.

We think establishing specific guidelines for working cases is not appropriate considering the wide variety and complexity of issues. However, we are requiring action plans for any open cases over 180 days from assignment as noted above. Also, we are referring the substantive contact issue to our Appeals Customer Service Oversight group to develop a timeliness and content standard and recommend a measurement mechanism.

IMPLEMENTATION DATE(S)

By 9/30/01 for actions 1 & 2. Action 3 was effective 1/1/2001.

RESPONSIBLE OFFICIAL:

National Chief Appeals

Recommendation 2

Appeals should include criteria in the closed case quality review program to ensure determination letters meet the requirements of the Code of Federal Regulations and address Appeals' basis for the determination, i.e., that each letter addresses all issues raised by the taxpayer and whether the IRS followed all the applicable rules and regulations and balanced tax collection with the taxpayer's legitimate concerns.

ASSESSMENT OF CAUSE:

You noted some determination letters did not address all the issues raised by the taxpayer or did not clearly confirm that:

- The IRS followed all the required laws and regulations
- The proposed collection action balanced the need for efficient tax collection with the taxpayers' concerns

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We are concerned the following items (we call them the “Big Three” were not adequately discussed on the Notices of Determination. The “Big Three” items we must consider by statute in the hearing are:

- The verification by the IRS that all the required laws and regulations are followed
- The issues raised by the taxpayer in the hearing
- The proposed collection actions must balance the need for efficient tax collection with the taxpayer’s legitimate concern that the actions are not unnecessarily intrusive

The taxpayer is entitled to information about our determination concerning these “Big Three” areas. We consider these fundamentals of working these cases, so we are very concerned if we have failed in any of these areas.

When you told us about this problem, we immediately issued a memorandum reminding employees to discuss these provisions adequately because they will be part of the closed case quality review program. This memorandum also required the determination letter to include specific labels or headings for each of the “Big Three” issues. Our anticipated ACM and Determination Letter Desk Guide should also help us improve in this area. We recently completed training Settlement Officers on these issues and will similarly train all Appeals Officers working CDP cases.

We will develop a specific collection case related quality review program check sheet to include these CDP issues and other items specific to other types of collection cases.

We also recently received detailed training guidance on the specific content of CDP Notices of Determination and Appeals Case Memos from Counsel. We shared this training material with all Appeals managers. We plan to add it to our CDP Web page to ensure it is readily available to all employees working CDP cases. We believe this information will assist employees in addressing the issues in their Notices of Determination. We will add this guidance to our ACM and Determination Letter Desk Guide.

AGREED ACTIONS:

1. Improve the quality of our Appeals Case Memos (ACM) and Determination Letters (DL) by developing and distributing a guide on the proper preparation of these documents for use by our field personnel.
2. Provide on-going review and feedback by establishing Appeals Quality Measurement System (AQMS) guidelines specific to Collection Due Process cases.

IMPLEMENTATION DATE(S):

Taxpayer Service on Lien and Levy Appeals Could Be Further Improved

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By September 30, 2001

RESPONSIBLE OFFICIAL(S):

National Chief Appeals

OUTCOME MEASURES

We agree with your Outcome Measures as described in Appendix IV. In November 2000, our Nationwide Appeals Review Program reviewed 223 CDP cases with determination letters issued in August 2000. We separately evaluated each of the "Big Three" issues in our determination letters. The following needs improvement by percentage:

- Verifying laws and regulations – 9.4%
- Addressing issues raised by taxpayers – 11.2%
- Balancing efficient tax collection with intrusiveness of actions – 17.5%

Again, thank you for giving us the opportunity to comment. We look forward to distributing the final report to our field operations.

If you have any questions or need additional information, please contact Cheryl Revier of my staff at (202) 694-1847.